

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
ST. JOSEPH DIVISION**

RIGHTCHOICE MANAGED CARE, INC.,	)	
et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 5:18-cv-06037-DGK
	)	
HOSPITAL PARTNERS, INC., et al.,	)	
	)	
Defendants.	)	

**ORDER ENTERING DEFAULT JUDGMENT AGAINST  
EMPOWER DEFENDANTS**

This lawsuit arises out of an alleged pass-through billing scheme for laboratory tests billed from a rural Missouri hospital. Plaintiffs, a collection of health insurers, are suing a variety of Defendants to recover money from the alleged fraud.

Pending before the Court are three prior orders.

First, its September 24, 2020, Order (Doc. 430) imposing sanctions under Rule 37 of the Federal Rules of Civil Procedure on the Empower Defendants<sup>1</sup> for two independent violations: (1) failing to designate and prepare corporate representatives to be deposed; and (2) failing to produce documents in violation of the Court's prior discovery orders. Second, its November 3, 2020, Order (Doc. 444) setting the amount of the sanction at \$36,450. Both orders expressly warned the Empower Defendants that, if they failed to pay the sanction within twenty-one days, the Court might enter default judgment against them. *See* Doc. 430 at 15 ("If the costs and attorneys' fees [imposed as a sanction] are not paid within twenty-one days, the Court may enter a default

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<sup>1</sup> The "Empower Defendants" are Defendants Empower H.I.S. LLC; Hospital Partners, Inc.; and Jorge Perez. The same attorneys represent all three parties.

judgment against the Empower Defendants.”); Doc. 444 at 2 (“The Empower Defendants shall pay Plaintiffs \$36,540 within twenty-one days of the date of this order. As set out in the prior order, if the Empower Defendants fail to pay this amount within twenty-one days, the Court may enter default judgment against them.”).

Third is its December 3, 2020, Order (Doc. 448) directing each Empower Defendant to show cause on or before December 10, 2020, why default judgment should not be entered against it or him pursuant to Rule 37(b)(2)(A)(vi). This order expressly warned that “[a]ny Empower Defendant who fails to file a response by this date shall have a default judgment entered against it or him in an amount to be determined at a later time.”

None of the three Empower Defendants filed a response.

Accordingly, pursuant to Rule 37(b)(2)(A)(vi), default judgment is entered against Defendant Empower H.I.S. LLC; Defendant Hospital Partners, Inc.; and Defendant Jorge Perez. These Defendants are jointly and severally liable for the Judgment. The amount of the Judgment will be determined after the Court hears evidence at trial or, if no trial is held in this case, after a hearing on damages.

**IT IS SO ORDERED.**

Date: December 23, 2020

/s/ Greg Kays  
GREG KAYS, JUDGE  
UNITED STATES DISTRICT COURT